

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

JOHN A. SMITH, 54878-060, )  
Petitioner, )  
                        )  
                        )  
v.                     ) 2:17-cv-1476  
                        )  
                        )  
THE STATE OF OHIO, )  
Respondent.         )

REPORT and RECOMMENDATION

I. Recommendation:

It is respectfully recommended that the petition of John A. Smith for a writ of habeas corpus (ECF No.6) be transferred to the United States District Court for the Northern District of Ohio, Eastern Division for further consideration pursuant to 28 U.S.C. § 1404.

II. Report:

John A. Smith an inmate at the United States Penitentiary Canaan located in Waymart, Pennsylvania has presented a petition for a writ of habeas corpus which he has been granted leave to prosecute in forma pauperis. Smith is presently serving a forty-six month federal sentence imposed by the United States District Court for the Northern District of Ohio. However, this sentence is not the subject of the instant petition. Rather petitioner contends that in or about August 2014 he was charged with driving on a suspended license and playing loud music by authorities in Youngstown Ohio. Smith further alleges as a result of his federal incarceration he was unable to appear in the Youngstown Municipal Court to answer those charges and has repeatedly sought disposition of those charges.<sup>1</sup> He now seeks dismissal of the Ohio charges on grounds of actual innocence and denial of a speedy trial.<sup>2</sup>

It is provided in 28 U.S.C. § 1404(a) that:

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<sup>1</sup> Smith contends that upon his completion of the residual drug treatment program at F.C.I. Allenwood, he was unable to participate in a federal half-way house program because of the pendency of the Ohio charges.

<sup>2</sup> We note that the petitioner is neither incarcerated in this District nor serving any sentence imposed in this District.

For the convenience of parties and witnesses, in the interest of justice, a district court may transfer any civil action to any other district or division where it might have been brought...

In the present case, it appears that Smith is seeking to challenge matters pending in the Municipal Court of Youngstown which is located in the Northern District of Ohio, Eastern Division, and for this reason, it is recommended that this action be transferred to that Court pursuant to 28 U.S.C. § 1404(a).

Litigants who seek to challenge this Report and Recommendation must seek review by the district judge by filing objections within fourteen (14) days of this date and mailing them to United States District Court, 700 Grant Street, Pittsburgh PA 15219-1957. Failure to file timely objections will waive the right to appeal.

Respectfully submitted,  
s/ Robert C. Mitchell  
United States Magistrate Judge

Filed: November 29, 2017